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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,280	08/13/2002	Richard Courthope Giles	2373/103	2368
2101	7590	06/15/2004	EXAMINER	
BROMBERG & SUNSTEIN LLP 125 SUMMER STREET BOSTON, MA 02110-1618			SELF, SHELLEY M	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/936,280

Applicant(s)

GILES ET AL.

Examiner

Shelley Self

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10-15 is/are rejected.
- 7) ☒ Claim(s) 6-9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "92" has been used to designate both *inclined path* and *floating frame*. A proposed drawing correction or corrected drawings are required in reply to the Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 10-14 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot serve as a basis for another multiple dependent claim (i.e. multiple dependent claim 5 cannot serve as a basis for any multiple dependent claims 10-14). See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5/1, 5/2 and claim 15 as we as can be understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al. (4,338,985) Smith discloses a tree harvesting apparatus including a rotary saw (412), a transport means (458,460), a chipping means (446), whereby, in use, when said tree harvesting apparatus is mounted on the vehicle and said vehicle driven along a row of trees, said apparatus can continuously cut and chip said trees.

With regard to claims 5/1 and 5/2, Smith discloses first and second opposed transport/conveying means (458/ 460) each provided with extending fingers (462) so that a cut tree is gripped by the fingers of the opposed conveyor/transport means.

As best as can be understood with regard to claim 15, Smith substantially discloses the invention as described.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (4,338,985) in view of Holmes (6,026,869). Smith does not disclose an saw disposed in an inclined plane so that the leading edge of the saw is near ground level and below a trailing edge of the saw. Holmes teaches a leading edge at an inclined plane and below a trailing edge. Holmes teaches this construction because it is well known in the felling art that raising and tilting of a felling head (i.e., rotary/circular cutter/saw) during harvesting has disadvantages and may result in damage to the cutter. However it is necessary to either tilt the cutter/feller/saw or provide such at an inclined path so as to cut/fell a tree/brush as close to the ground as possible. Because the references are from a similar art and deal with a similar problem (i.e. felling/harvesting a tree) it would have been obvious at the time of the invention to replace Smith's saw with an inclined saw so as to improve felling/harvesting efficiency with minimal damage to the harvester/cutter, as taught by Holmes.

With regard to claims 5/3 and 5/4, Smith discloses first and second opposed transport/conveying means (458/ 460) each provided with extending fingers (462) so that a cut tree is gripped by the fingers of the opposed conveyor/transport means.

Allowable Subject Matter

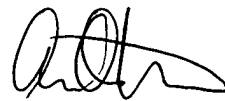
Claims 6-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if any 35 U.S.C. 112 rejections were overcome.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Self whose telephone number is (703) 305-5299. The examiner can normally be reached Mon-Fri from 8:30am to 5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Allen Ostrager can be reached at (703) 308-3136. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIE or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSelf
June 8, 2004



ALLEN OSTRAGER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700